



EPA Region 10 CAA 112(r) Update

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EPA Region 10 CAA 112(r) Update EPA Region 10, Seattle

*The Update covers the latest
issues related to
the Accidental Release
Prevention Requirements of the
Clean Air Act.*

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Public Meetings Required by February 1, 2000

Facilities that were required to submit an RMP for a Program 2 or Program 3 process, are now required by the Chemical Safety, Site Security, and Fuels Regulatory Relief Act (PL 106-40) to announce and hold a public meeting by Feb. 1, 2000, to discuss their RMPs, including the Offsite Consequence Analysis (OCA) sections. If they meet the applicable definition of "small business stationary source," they may choose instead to publicly post a summary of their OCA information.

In either case, they must certify to the Federal Bureau of Investigation (FBI) by June 5, 2000, that they have held the meeting or posted the summary. Facilities having only Program 1 processes are exempt from the public meeting/summary requirement.

The new law requires that the public meeting must:

- be convened after "reasonable public notice" of the meeting; and
- "describe and discuss the local implications" of the RMP, including a summary of the information in the OCA sections of the plan.

Facilities have broad discretion under PL 106-40 to decide how best to announce and conduct a public meeting that meets these requirements. The new law allows them to conduct joint public meetings with other facilities. Many facilities around the nation are deciding to coordinate their meetings with the local

LEPC or fire department.

Facilities that held or participated in a public meeting between Aug. 5, 1998 and Aug. 5, 1999 that met the requirements for public meetings, do not have to conduct another public meeting.

For more information on the Chemical Safety Information, Site Security and Fuels Regulatory Relief Act, the definition of a small business, getting credit for previous public meetings, or sending a certification to the FBI, go to www.epa.gov/swercepp/ap-99law.htm.

Small Chemical Businesses Not Y2K Ready

The Mary Kay O'Connor Process Safety Center at Texas A&M University recently released a survey of small and medium-sized enterprises (SMEs) that manufacture, process or use chemicals. The report found that many of these SMEs were not ready for Y2K, and specifically found that:

- 86.5 % of firms surveyed are not currently prepared for Y2K.
- 85.6 % have not coordinated emergency plans with local/community officials. A majority have not linked contingency planning to community emergency services such as police, fire and rescue, or hospitals.
- 79 % said they had never before been surveyed about Y2K preparedness.
- A majority of respondents do not belong to industry organizations or trade associations, which have been the primary gatherers of Y2K preparedness information in the private sector.
- 4.1 % said Y2K presents "potential for a catastrophic event."

The Process Safety Center specifically recommended that industry, federal agencies, state and local authorities, and Congress should:

- Continue intensive communications on the need to address Y2K issues and the short time available for remediation;
 - Use leverage with suppliers and customers to force remediation of Y2K deficiencies;
 - Provide assistance with methodology required to address Y2K problems;
 - Publish results on Y2K readiness of specific equipment and procedures to fix them;
 - Share testing procedures for Y2K vulnerable equipment; and
 - Share contingency planning strategies.
- Given the shortage of time, special emphasis should be given to contingency planning and communication issues.

EPA has published guidance and provided Internet links that facilities can use as Y2K resources. These resources are available on the CEPPO Web site at

www.epa.gov/swercepp/y2k.htm and include:

EPA/CEPPO Alert: Preventing Year 2000 Emergencies, EPA 550-F-99-003 (February 1999).

Addressing Year 2000 Issues in Small and Medium-Sized Facilities that Handle Chemicals, EPA 550-F-99-011, EPA, Chemical Safety Board and several chemical trade associations (June 1999)

Health, Safety, and Environmental Concerns in Chemical Processing - Supplement to EPA 550-F-99-011, Chemical Manufacturers Association (October 1999)

Batch Manufacturing Module- Supplement to EPA 550-F-99-011, Synthetic Organic Chemical Manufacturers Association (October 1999)

Y2K Contingency Planning Guidelines, Chemicals Information Technology Association (March 1999)

EPA's Office of Regulatory Enforcement (ORE) notes that SMEs have an obligation and responsibility to take prompt and proper measures to prevent releases detrimental to human health and the environment. SMEs should already have

taken steps, such as those outlined in the enclosed ORE Enforcement Alert and the EPA Y2K Enforcement Policy, for expeditious testing and correction of potentially vulnerable Y2K systems. Facilities that do not take the appropriate safe guards to prevent releases may be subject to both civil and criminal penalties. The ORE Enforcement Alert and the EPA Y2K Enforcement Policy are available at:

EPA's Y2K Enforcement Alert, EPA 300-N-99-010 (August 1999):

www.epa.gov/oeca/ore/enfalert

EPA's Y2K Enforcement Policy Summary and Link to Policy:

www.epa.gov/oeca/eptdd/ocy2k.html

EPA's Year 2000 Website:

www.epa.gov/year2000

One opportunity for facilities to share information about their Y2K compliance would be at public meetings now required for some facilities to discuss their Risk Management Plans (RMPs). The Chemical Safety Information, Site Security and Fuels Regulatory Relief Act (P.L. 106-40) requires RMP facilities in Program 2 and 3 to hold public meetings on their RMP and Off-Site Consequence Analysis (or post a summary if they are a small business stationary source) before February 1, 2000.

The Process Safety Center report is available at www.chemsafety.gov/y2k/docs/sme_chemrpt.pdf

Accidents Waiting to Happen: New Report Issues Warning

Nearly five thousand U.S. chemical facilities are storing greater quantities of extremely hazardous substances than were released in the 1984 Bhopal, India, chemical accident, according to a new report released by U.S. PIRG and the Working Group on Community Right-to-Know. *Accidents Waiting to Happen: Hazardous Chemical Storage in the U.S.*, was released on the fifteenth anniversary of the Bhopal disaster, in

which a Union Carbide pesticide factory released 90,000 pounds of the chemical methyl isocyanate. The resulting toxic cloud killed several thousand people and injured hundreds of thousands.

The report examines facilities across the country storing chemicals that the U.S. EPA has defined as 'extremely hazardous substances' because of their potential for catastrophic accidents. Of those facilities, at least 100 are storing more than 30 million pounds of an extremely hazardous substance, or more than 300 times the amount released at Bhopal. Every state except Vermont has at least one facility storing greater amounts of hazardous substances than were released at Bhopal.

The report also notes the high frequency of chemical accidents in the U.S., citing a study by the U.S. Chemical Safety Board (CSB) estimating that, on average, 60,000 chemical incidents happened every year between 1987 and 1996, or more than 150 every day. On average, these accidents kill about 250 people nationwide every year.

Other findings of *Accidents Waiting to Happen* include:

Ammonia, a hazardous substance used as a fertilizer, is stored in very large quantities in farm states, ranking Illinois, Iowa, Kansas, Nebraska, Texas, Minnesota, Indiana, North Dakota, and Ohio as the states with the highest numbers of facilities storing more than 100,000 pounds of a hazardous chemical.

More traditionally industrial states have the highest numbers of facilities storing hazardous chemicals other than ammonia; Texas, California, Louisiana, Ohio, Illinois, Pennsylvania, South Carolina, Georgia, New Jersey, Alabama, and Florida rank highest for more traditionally industrial chemicals.

The report makes the following recommendations:

- 1. Honor the public's right to know: the report calls for making the complete national database of Risk Management Plans, including the worst-case scenarios, available to the public, and also advocates passage of the Children's Environmental Protection and Right to Know Act (H.R. 1657).
- 2. Put inherent safety first: the report calls

on the government to develop regulations to require inherently safer technologies as a first resort, and calls for passage of the related legislation, the Chemical Security Act (S. 1470).

- 3. Prepare for Y2K-related chemical safety problems.

For the full text of the report, see www.pirg.org/chemical/report.html

Idaho Reporting Initiative Improves EPCRA Compliance

A cooperative, integrated strategy initiative between Region 10 EPA and the Idaho Bureau of Hazardous Materials resulted in marked improvements in data quality and compliance with Emergency Planning and Community Right-to-Know Act (EPCRA) Tier II inventory reporting by facilities storing hazardous materials. The inventory provides information to the public about chemicals being used or stored in their community and helps local agencies plan for chemical emergencies.

The integrated initiative included the following components: (1) screening and targeting from an initial potential regulated community of over 1600, (2) targeted compliance assistance letters, (3) enforcement warning letters, and (4) compliance inspections. Any follow-up enforcement will occur in FY 2000.

As a result of the initiative, all but 16 apparent non-reporters either returned to compliance or were found to be exempt or out of business. The final 16 out of compliance facilities were targeted for inspections or telephone calls resulting in an additional 7 filings, 6 exemptions and 3 facilities under additional evaluation for possible enforcement case development.

NIEHS Urges Safety Workers to Prepare for Y2K

The National Institute of Environmental Health Sciences said today that safety and contamination clean-up workers should make Y2K computer checks to prevent false alarms at the beginning of the year

2000-- or the possibility of alarm failures in truly hazardous systems. The program said that safety workers should also prepare for some malfunctions to occur-- from alarms that fail to elevators and decontamination equipment that won't work.

The NIEHS warnings are part of a new safety awareness handbook, training course and resource materials designed to help workers, employers and emergency responders prepare for potential health and safety risks associated with the year 2000 computer problem. NIEHS runs the Superfund training of emergency workers within police and fire departments, the transportation industry and elsewhere who are sent to contain spills and establish safety in chemical or nuclear accidents.

The course targets specific risks for workers in a variety of sectors including chemical and industrial facilities, the construction trades, the health care industry, hazardous materials related fields, and emergency response activities. The Y2K awareness materials include measures workers can take to safeguard themselves, their facilities and their communities.

The NIEHS Year 2000 Worker Awareness Handbook and associated training resource materials are available for free download at www.niehs.nih.gov/wetp, by e-mailing wetp@niehs.nih.gov, or by calling (919) 541-0303 or (301) 571-4226.

HAZMAT 2000 Spills Prevention Conference

The U.S. Environmental Protection Agency (EPA) and a number of other federal, state and local agencies will sponsor the HAZMAT 2000 Spills Prevention Conference on April 4-6, 2000, in St. Louis, Missouri. The three-day event will be held at the Regal Riverfront Hotel just minutes from the St. Louis Gateway Arch.

The conference agenda includes: chemical accident prevention, counter-terrorism and special event planning, risk management

program (RMP), methamphetamine and clandestine drug labs, ammonia refrigeration awareness training, and detailed case studies involving hazardous materials spills and accidents.

The conference is designed for members of Local Emergency Planning Committees, State Emergency Response Commissions, fire fighters, industry representatives, environmental managers, and health and safety officials - or anyone interested in preventing, preparing for, and responding to hazardous spill incidents.

For more information regarding the conference visit the website at www.nrt.org/hazmat2000 or call the Great Lakes Commission at (703) 934-3760. If you are interested in exhibit space at the conference, contact Kristina Schuchman, Metropolitan Manufacturers Associations at (314) 966-1006.

What's Up With Propane?

In December, EPA expects to issue a regulation for reporting flammable fuels under Section 112(r) of the Clean Air Act to codify a recently enacted law. Additionally, EPA and the National Propane Gas Association expect to file a joint motion on or about Dec. 8 to dismiss a lawsuit that stayed RMP reporting for ALL stationary sources holding propane above the 10,000 pound threshold, regardless of how it was used or distributed. The court is expected to lift the stay within 10 days of receipt of the motion to dismiss. The judicial stay applied only to propane facilities (regardless of type).

The recently enacted Chemical Safety Information, Site Security and Fuels Regulatory Relief Act established new provisions for ALL flammable fuels. Under the law, as of Aug. 5, 1999, flammable substances used as fuel at any type of facility OR held for sale as fuel at a retail facility no longer are covered by the Clean Air Act Risk Management Program. However, flammable fuels used as a feedstock to produce something else or held for sale as fuel at a non-retail facility, such as a wholesale operation, terminal, or manufacturing site, are still covered.

Q: When will the regulation be effective?

A: As of Aug. 5, 1999, requirements for flammable fuels used as fuel or held for sale as fuel by retailers were no longer covered under the Clean Air Act Section 112(r). The regulation merely codifies the law's provisions. Therefore, the regulation will be effective immediately.

Q: What about EPA's Administrative Stay issued earlier this year?

A: The purpose of the administrative stay was to relieve certain fuel facilities from RMP coverage while EPA completed the work necessary to create a permanent exemption for facilities having up to 67,000 pounds of flammable fuel in a process. The Chemical Safety Information, Site Security and Fuels Regulatory Relief Act, reached further than the scope of the administrative stay, since it 1) removed from RMP coverage ALL listed flammable substances when used as a fuel or held for sale as a fuel at a retail facility, and 2) had no eligibility threshold. The new law in effect rendered EPA's Administrative stay moot. Because the stay will expire on Dec. 21, EPA will not publish notice withdrawing the stay.

Q: Will there be a phase-in period for facilities that were not required to file RMPs for propane by June 21 because of the judicial stay?

A: No. There will be no phase-in period for facilities with propane that will still be covered under Section 112(r). Assuming the court lifts the judicial stay for propane as expected, facilities that use propane as a feedstock to produce something else or hold propane for purposes other than on-site fuel use at a non retail facility must immediately come into compliance with Section 112(r) of the Clean Air Act.

Q: My facility was covered by the judicial stay and did not have to submit an RMP by June 21. Once the stay is lifted, I must file an RMP for a Program 2 propane process. The Chemical Safety Information, Site Security and Fuels Regulatory Relief Act requires facilities that submit RMPs for Program 2 or Program 3 processes to hold a public meeting by Feb. 1, 2000, to discuss their Risk Management Program and off-site

impacts. Does my facility have to hold a meeting?

A: No. Only facilities that were required to submit RMPs for Program 2 and Program 3 process *by June 21, 1999*, must hold a meeting.

For more information, contact the EPCRA Hotline at (800) 424-9346 or (703) 412-9810.

To receive future newsletters electronically, please forward your email address to
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